

[Code of Federal Regulations]  
[Title 9, Volume 1]  
[Revised as of January 1, 2002]  
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[CITE: 9CFR118.1]

## TITLE 9--ANIMALS AND ANIMAL PRODUCTS

### CHAPTER I--ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

#### **PART 118--DETENTION; SEIZURE AND CONDEMNATION**

##### **Sec. 118.1 Administrative detention.**

Whenever any biological product which is prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations is found by any authorized representative of the Administrator upon any premises, it may be detained by such representative for a period not to exceed 20 days, pending action under Sec. 118.4, and shall not be moved by any person from the place at which it is located when so detained, until released by such representative.

[52 FR 30135, Aug. 13, 1987, as amended at 56 FR 66784, Dec. 26, 1991]

##### **Sec. 118.2 Method of detention; Notifications.**

An authorized representative of the Administrator shall detain any biological product subject to detention under this part by:

(a) Giving oral notification to the owner of the biological product if such owner can be ascertained, and, if not, to the agent representing the owner or to the immediate custodian of the biological product; and

(b) Promptly furnishing the person so notified with a preliminary notice of detention which shall include identity and quantity of the product detained, the location where detained, the reason for the detention, and the name of the authorized representative of the Administrator.

(c) Within 48 hours after the detention of any biological product, an authorized representative of the Administrator shall, if the detention is to continue, give written notification to the owner of the biological product detained by furnishing a written statement which shall include the identity and quantity of the product detained, the location where detained, specific description of the alleged noncompliance including reference to the provisions in the Act or the regulations which have resulted in the detention, and the identity of the authorized representative of the Administrator; or, if such owner

cannot be ascertained and notified within such period of time, furnish such notice to the agent representing such owner, or the carrier or other person having custody of the biological product detained. The notification, with a copy of the preliminary notice of detention shall be served by either delivering the notification to the owner or to the agent or to such other person, or by certifying and mailing the notification, addressed to such owner, agent, or other person, at the last known residence or principal office or place of business.

[52 FR 30135, Aug. 13, 1987, as amended at 56 FR 66784, Dec. 26, 1991]

### **Sec. 118.3 Movement of detained biological products; Termination of detention.**

Except as provided in paragraphs (a) and (b) of this section, no biological product detained in accordance with the provisions in this part shall be moved by any person from the place at which such product is located when it is detained.

(a) A detained biological product may be moved from the place at which it is located when so detained for the purpose of providing proper storage conditions if such movement has been approved by an authorized representative of the Administrator; Provided, That, the biological product so moved shall be detained by an authorized representative of the Administrator after such movement.

(b) A detained biological product may be moved from the place at which it is detained on written notification by an authorized representative of the Administrator that the detention is terminated; Provided, That, the conditions under which the detained biological product may be moved will be specified in the written notification of the termination. The notification of termination shall be served by either personally delivering the notification, or by certifying and mailing the notification addressed to such person at the last known residence or principal office or place of business of the owner, agent, or other person having custody of the biological product.

[52 FR 30135, Aug. 13, 1987, as amended at 56 FR 66784, Dec. 26, 1991]

### **Sec. 118.4 Seizure and condemnation.**

Any biological product which is prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court within the jurisdiction of which the product is found. If the product is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct, and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses,

shall be paid into the Treasury of the United States, but the product shall not be sold contrary to the provisions of the Act or the laws of the jurisdiction in which it is sold; Provided, That, upon the execution and delivery of a good and sufficient bond conditioned that the product shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws or jurisdiction in which disposal is made, the court may direct that such product be delivered to the owner thereof subject to such supervision by authorized representatives of the Administrator as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered against the product and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the product. The proceedings in such libel cases shall conform, as nearly as may be practicable, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

[52 FR 30135, Aug. 13, 1987, as amended at 56 FR 66784, Dec. 26, 1991]